

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Dr. Harry N. Charles, II, # 268775,

Petitioner,

vs.

Raymond Reed, Warden @ Manning,

Respondent.

C/A No. 2:10-1801-MBS

ORDER

DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA, SC

2010 AUG 30 P 3:24

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Petitioner Harry N. Charles, II is an inmate in custody of the South Carolina Department of Corrections. He currently is housed at Manning Correctional Institution in Columbia, South Carolina. Petitioner, proceeding pro se, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254, contending that he is being detained unlawfully.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Robert S. Carr for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915 and the Anti-Terrorism and Effective Death Penalty Act of 1996. On July 29, 2010, the Magistrate Judge issued a Report and Recommendation in which he recommended that the petition be summarily dismissed because it is an unauthorized successive § 2254 petition. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is

made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has carefully reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Accordingly, Petitioner’s petition is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

August 26, 2010.

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.